

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant : | Rahul R. Vaid | Art Unit : | 3626 |
| Serial No. : | 09/409,242 | Examiner : | Robert W. Morgan |
| Filed : | September 30, 1999 | Conf. No. : | 5090 |
| Title : | PRE-PAID AIRLINE TICKETS | | |

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
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REPLY BRIEF UNDER 37 C.F.R. 41.41

This Reply under 37 C.F.R. 41.41 is responsive to Examiner's Answer mailed April 2, 2007 to Brief for Appeal by Appellant filed on February 5, 2007. A Supplemental Appeal Brief is being submitted concurrently herewith in response to a Notification of Non-Compliant Appeal Brief under 37 CFR 41.37 mailed on May 29, 2007.

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STATUS OF CLAIMS

Claims 1-16 and 76-78 remain pending in the Application. Claims 1-16 and 76-78 are being appealed by way of this Appeal Brief. A copy of the claims appears in the Claims Appendix, Section VIII, of the Supplemental Appeal Brief being submitted concurrently herewith.

With regard to the prosecution history of the claims of the present application, claim 34 was amended in an Amendment filed on September 23, 2002. Claims 1, 34, and 44 were amended and claims 50-56 were added in an Amendment filed on February 3, 2003. Claims 17-33 were withdrawn and claims 57-74 were added in an Amendment filed on November 3, 2003. Claims 1, 34, 44, and 66 were amended and claims 65-74 were renumbered as claims 66-75 in an Amendment filed July 19, 2004. Claim 1 was amended and claims 34-75 were canceled in an Amendment filed March 1, 2005. Claims 1, 3, 6, and 8-16 were amended in an Amendment filed September 6, 2005, but the Amendment was not entered for being non-compliant. The Amendment filed September 6, 2005 was re-filed on October 10, 2005, and the amendments to claims 1, 3, 6, and 8-16 were entered. Claim 1 was amended and claims 76-78 were added in an Amendment filed April 3, 2006.

As a summary, claims 1-16 and 76-78 were all previously presented and remain pending. Claims 17-33 were withdrawn. Claims 34-75 were canceled.

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

As a concise statement of the grounds for appeal, Appellant states that Claims 1-11 and 14-16 and 76-78 stand rejected under 35 U.S.C. 103(a) in the present Final Office Action mailed on July 10, 2006, with the Examiner finding the claims to be unpatentable over U.S. Patent No. 5,897,620 to Walker et al. ("Walker") in view of "Hawaiian Air to Offer Tickets Through ATMs" by Wall Street Journal ("Hawaiian Air"). Claims 12-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of U.S. Patent No. 5,953,705 to Oneda.

REMARKS

Claims 1-16 and 76-78 remain on Appeal. Claims 17-33 were previously withdrawn. Claims 34-75 were canceled without prejudice. Appellant believes no new grounds for rejection were raised in Examiner's Answer.

Remarks Regarding Claim Rejections under 35 U.S.C. § 103

Claim 1 remains on appeal as follows and as submitted in the Appeal Brief:

A. Claim 1

1. A pre-paid airline ticketing system comprising:
a processor; and
a storage device in communication with said processor and configured to store a record representing a pre-paid, fixed-price option purchased by a customer, the record including:
 - (i) a plurality of geographic flight parameters and a plurality of non-geographic flight parameters, at least one of the geographic flight parameters being unspecified and at least one of the non-geographic flight parameters being participating airlines available for selection by the customer for booking a flight; and
 - (ii) an identifier associated with and uniquely identifying the record for the customer to use to exercise the pre-paid, fixed price option; andsaid processor configured to:
verify an identifier submitted by a customer to exercise the pre-paid, fixed-price option;
retrieve the record including the identifier submitted by the customer;
directly communicate and present information to the customer, the information representative of flights available to be selected by the customer based on the geographic and non-geographic flight parameters stored in the record;
directly receive selection information of one of the flights from the customer; and
book the flight selected by the customer from among the presented flights by exercising the pre-paid, fixed-price option. (emphasis added)

Briefly, a system according to claim 1 includes a processor configured to present information representative of flights available to be selected by the customer and receive selection information of a flight from the customer to book the flight selected by the customer who is exercising the pre-paid, fixed-price option.

Page 4, lines 4-12 of the Examiner's Answer states:

In an alternative embodiment, Walker et al. also teaches traveler could receive a verification code and use it to pick up a ticket at the airline's desk prior to departure (see: column 15, lines 46-49). Moreover, Walker et al. teaches that if instructed by the traveler (105, Fig. 1) and if there is available inventory for a special fare listing, the travel agent (110, Fig. 1) will book the unspecified-time ticket and create a passenger name record (PNR) number (see: column 5, lines 64 to column 6, lines 5). **This suggests that actual flight information is presented and selected by the customer or agent via a network.** For example, if only one flight from the participating airlines meets the passenger['s] travel criteria and then is presented and selected by the passenger, it would meet Applicant claimed invention. (emphasis added)

Appellant respectfully disagrees with Examiner's statement italicized in the above quote as Appellant believes Walker's alternative embodiment does not teach or suggest a system that operates in a way other than a system that enables airlines to book a ticket for a passenger. More specifically, and as recited in Appellant's Appeal brief, Walker specifically recites in col. 3, lines 1-11,

a system and method for ... transmitting the special fare listing to a buyer; receiving a booking of a ticket corresponding to the special fare listing from the buyer; transmitting the booking information to an airline; and receiving an identification of a **flight selected by the airline** which fulfills the terms of the ticket. (emphasis added)

The above-cited disclosure by Walker is in direct contrast to Appellant's claim 1, last paragraph, which recites, "book the flight selected by the customer from among the presented flights." (emphasis added) A restriction consistent with Walker's system prohibiting a customer from selecting his or her flight is described in Appellant's background section of the originally filed Application on page 2, lines 7-13.

Walker's alternative embodiment is described in col. 15, lines 34-52 as:

in the event that a traveler purchases an unspecified-time ticket close to the date of departure (e.g., a week or less), the travel agent or airline may have insufficient time to forward to the traveler a ticket with the actual flight data printed thereon. In that case, the airline can issue a ticket with the actual flight data except for the flight number and departure time. **Once the airline has selected an actual flight for the traveler**, the airline would provide the traveler directly, or through his travel agent, with a verification code together with the flight number and departure time.

As further stated on page 4, lines 9-10 of the Examiner's Answer, "[t]his suggests that actual flight information is presented and selected by the customer or agent via a network." However, Appellant respectfully submits that Walker neither presents the flight information to the customer (or travel agent) nor enables selection by the customer because such a suggestion of Walker's alternative embodiment is a misinterpretation and misreading of Walker since the entire passage does not appear to have been considered. Specifically, the Examiner Answer cited column 5, line 64 to column 6, line 5. However, had the entire passage, column 5, line 64 to column 6, line 8, been considered, where column 6, lines 5-8 states, "the traveler 105 is provided with a special fare listing number and **a notification date, by which date the traveler 105 will be provided with the actual flight number and departure time**," the conclusion would have been the same as reached in Walker's primary embodiment, which is that the airlines book the flight. In particular, in Walker's alternative embodiment, the reason that the traveler is provided a notification date by which the traveler will be provided with the actual flight number and departure time is, again, because the airlines book the flight. Walker's system is limited to airlines booking a flight for a customer even in the case of a travel agent's requesting a flight booking by Walker's system for the customer.

In addition, as stated in column 5, lines 52-63 of Walker:

An itinerary includes the origin and destination locations together with the travel dates. The travel agent 110 then logs into the CRS 300 and obtains flight records for all flights that satisfy the requested itinerary. One of the flight records may be designated a "special fare listing" indicating that a traveler can purchase an unspecified-time ticket for a flight that satisfies the requested itinerary, **although the actual flight itself and thus, the flight time, has not yet been determined by the airline**. In any event, the unspecified-time ticket represents a commitment for carriage (i.e., an

obligation by the airline to provide a seat on a flight) for the requested itinerary.

Again, even for the embodiment described by Walker as allowing the travel agent to log into the CRS to purchase an unspecified-time ticket for a flight that satisfies the requested itinerary, the airline still books the flight because the unspecified-time ticket must be specified by the airline that books the flight. That is, the itinerary indicated on the unspecified-time ticket is limited to a travel day, and Walker's system allows an airline to book the flight that meets the itinerary to honor its commitment for carriage in exchange for reduced airfare for a customer. Therefore, the customer is told by the airline at what time and on what flight he or she will be traveling on the travel days of the itinerary.

Appellant further respectfully submits that the example presented in the Examiner's Answer on page 4, last sentence of top paragraph, "[f]or example, if only one flight from the participating airlines meets the passengers travel criteria and then is presented and selected by the passenger, it would meet Applicant[s] claimed invention," fails to meet Appellant's claimed invention in two respects. First, the flight parameters are not presented to the customer or travel agent. As stated in Walker, column 5, lines 56-60, "[o]ne of the flight records may be designated a 'special fare listing' indicating that a traveler can purchase an unspecified-time ticket for a flight that satisfies the requested itinerary, **although the actual flight itself and thus, the flight time, has not yet been determined by the airline.**" Without the actual flight or flight time having been determined by the airline when inspected by the travel agent, Appellant respectfully submits that information representative of flights available to be selected by the customer is meaningless and, thus, fails to meet Appellant's claimed invention. Second, even if only one flight is available that meets the customer's itinerary, Walker does not present the flight, only with information that there is a flight with a special fare listing that satisfies the requested itinerary (as cited above), and still requires that the Airline book the flight. Again, as stated in column 6, lines 5-8, "the traveler 105 is provided with a special fare listing number and a notification date, by which date the traveler 105 will be provided with the actual flight number and a departure time." Thus, Walker, even in the case of a single flight matching a customer's itinerary, still requires that the airlines book the flight. Therefore, because of the two

deficiencies in the example presented in the Examiner's Answer, Walker fails to teach at least two elements of Appellant's claimed invention (i.e., "present information representative of flights" and "receive selection information of one of the flights from the customer").

With regard to the combination of Walker and Hawaiian Air, as stated on page 4, first full paragraph of the Examiner's Answer, "Walker fails to teach an identifier associated with [and] uniquely identifying the record for the customer to [use] to exercise the pre-paid, fixed price option." Hawaiian Air is being used for flight coupons ("open tickets") where, as stated in the Examiner's Answer, "a skilled artisan expects an 'open ticket' to include an identifier identifying the pre-paid airline ticket and operable to be utilized by the customer to book a flight."

The combination of Walker and Hawaiian Air fails as the Walker system requires that an airline book a flight and, therefore, fails to teach or suggest Appellant's claim 1, last paragraph, which recites, "book the flight selected by the customer from among the presented flights by exercising the pre-paid, fixed-price option." (emphasis added) Walker does not present any information of flights available to be selected by the customer (or travel agent) as the booking of flights is limited to the airlines. Therefore, the combination of Walker and Hawaiian Air fails to teach or suggest Appellant's claimed invention. Additional and more detailed description is provided in the Supplemental Appeal Brief.

Claims 2-16 and 76-78, which depend from independent claim 1, should be considered allowable for at least the same reasons as further described in the concurrently submitted Supplemental Appeal Brief.

In view of the above, and for other reasons clearly apparent, Appellant respectfully submits that the Application is in condition for allowance, and requests such a Notice.

No fees are believed due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

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Respectfully submitted,

Date: June 4, 2007

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